

STATEMENT OF PURPOSE

RS27222C1 / S1284

The amendment to I.C. § 74-105(18) will ensure the confidentiality of indigent defendants' attorney work product and attorney-client privileged information and the confidentiality of information about an attorney's fitness to represent indigent defendants by making this information exempt from disclosure under the Public Records Act. The Public Defense Commission records already contain such information therefore an emergency exists, and the amendment contains an emergency clause making the amendment effective on and after its passage and approval. The PDC's mission is to improve the delivery of indigent defense services so that the safeguards of the 6th Amendment to the U.S. Constitution and Article I, Sect. 13 of the Idaho Constitution are met. Indigent defendants sometimes misunderstand the PDC's role and as a result, send attorney work product and attorney-client privileged information to the PDC believing the information will remain privileged. The privilege does not extend to the PDC and this legislation will protect their constitutional rights and keep attorney work product and attorney-client privileged information confidential. The amendment will make this information exempt from disclosure under the Public Records Act. Additionally, in performing its mission, the PDC evaluates attorneys' fitness to represent indigent defendants. This is separate from the licensing and disciplining of attorneys handled by the Idaho State Bar. The PDC's evaluation involves the review of information about attorneys from the subject attorney, their peers, the judiciary and others. Open and honest input is critical to these evaluations and individuals may be unwilling to provide input, and attorneys may be unwilling to seek qualification to represent indigent defendants if the information they provide is not confidential. The amendment will make this information exempt from disclosure under the Public Records Act.

FISCAL NOTE

There is no fiscal impact on either the State or units of local governments. The passage of the amendment does not require any projected increase or decrease in existing or future appropriations for the State. No additional staffing or resources are needed, because the amendment will not change how the PDC responds to public records requests.

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DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).